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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,249	02/24/2004	Bart Van Den Bossche	920522-95589	8919
23644	7590	08/17/2006	EXAMINER	
BARNES & THORNBURG, LLP P.O. BOX 2786 CHICAGO, IL 60690-2786			SEVER, ANDREW T	
			ART UNIT	PAPER NUMBER
			2851	

DATE MAILED: 08/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/785,249

Applicant(s)

BOSSCHE ET AL.

Examiner

Andrew T. Sever

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3,6-8,10-14,16 and 20-24 is/are allowed.
- 6) ☒ Claim(s) 2,5,9 and 15 is/are rejected.
- 7) ☒ Claim(s) 17-19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Upon withdrawal (indicated below in paragraph 2) of the restriction requirement it was noted that the application now contains a substantial amount of duplicate claims (claims 5-9 and 15-21), resulting in the below duplicate claim objections and warnings. Further it was noted that claims 2, 5, 9, and 15 were indefinite under 35 U.S.C. § 112 do to a previously un-noticed indefinite limitations and the appropriate rejection has been made resulting in the present Non-Final rejection being made.

Election/Restrictions

2. Claims 1 and 14 are generic and allowable. Accordingly, the restriction requirement as to the encompassed species is hereby withdrawn and claims 5-9 and 15, directed to the species of figures 1, 2, and 6 are no longer withdrawn from consideration since all of the claims to this species depend from or otherwise include each of the limitations of an allowed generic claim.

In view of the above noted withdrawal of the restriction requirement as to the linked species, applicant(s) are advised that if any claim(s) depending from or including all the limitations of the allowable generic linking claim(s) be presented in a continuation or divisional application, such claims may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 44 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 2, 5, 9, and 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 2 recites the broad recitation smaller than 5%, and the claim also recites preferably smaller than 1%, more preferably smaller than 0.5% which is the narrower statement of the range/limitation. In the present instance, claim 5 recites the broad recitation equal within 1%, and the claim also recites preferably equal within 0.1%, more preferably equal within 0.01% which is the narrower statement of the range/limitation. In the present instance, claim 9 recites the broad recitation smaller than 25nm,

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and the claim also recites preferably smaller than 17nm, more preferably smaller than 7nm which is the narrower statement of the range/limitation. In the present instance, claim 15 recites the broad recitation equal in length within 1%, and the claim also recites preferably equal within 0.1%, more preferably equal within 0.01% which is the narrower statement of the range/limitation.

Double Patenting

6. Claims 17, 18, and 19 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 6, 7, and 8 respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

7. Applicant is advised that should claim 5, 9, and 15, be found allowable with respect to their broadest limitation (equal within 1% with respect to claim 5, smaller than 25 nm with respect to claim 9, and equal in length within 1% with respect to claim 15), claims 16, 20, and 21 respectively will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

8. Claims 1, 3, 6-8, 10-14, 16 and 20-24 are allowed.

9. The following is a statement of reasons for the indication of allowable subject matter:

Applicant has amended the independent claims 1 and 14 to include the limitation that an image representing a plane of equal color on the left and right sides of the screen must have an average color coordinate that differs by less than 0.01 on the 1976 CIE chromaticity Diagram for the ANSI-points. This specific recitation was not found in the prior art. While prior art projection systems may not have noticeable differences between the left and right side of the image, they do not recite an actual measurement using a well known reproducible measurement such as the 1976 CIE chromaticity Diagram in which to compare quantitatively the difference in combination with all of the other claimed limitations of claims 1 and 14. Accordingly claims 1, 3, 6-8, 10-14, and 16-24 are allowed.

Response to Arguments

10. Applicant's arguments with respect to claim 2, 5, 9, and 15 have been considered but are moot in view of the new ground(s) of rejection.

It has been noted that claims 2, 5, 9, and 15 are indefinite. Claims 2, 5, 9, and 15 would be allowable if the 35 U.S.C. § 112 rejection were overcome for the reasons given above in paragraph 9 as they are dependent on either independent claim 1 and 14 which as indicated above are allowable. Claims 17-19 are objected to as being substantial

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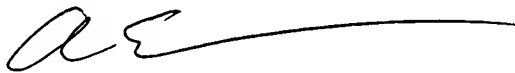
duplicates of claims 6-8, however if claims 6-8 were canceled they would be allowable do to their dependency on claim 1 which as indicated above is allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Sever whose telephone number is 571-272-2128. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diane Lee can be reached on (571) 272-2399. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AS



Andrew Sever